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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,287	03/12/2001	Timothy Kolody	MED 2 :118	7462

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EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,287

Applicant(s)

KOLOGY ET AL.

Examiner

Jack W. Lavinder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37-39 is/are allowed.
- 6) ☒ Claim(s) 1-7, 12, 14-30, 34 and 35 is/are rejected.
- 7) ☒ Claim(s) 8-11, 13, 31-33 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5, 17-20, 21-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the preamble states that the support table includes a substantially planar top and bottom surfaces. The first paragraph states the support table comprises an interface having a non-planar first connection area defined by said top surface of the support table. How can a non-planar area be defined by a planar surface? The first connection is non-planar and the top surface of the table is defined to be planar.

Regarding claim 17, the preamble states that the top surface of the table is flat. The claim states that the interface has a curved first connection area defined by the top surface. How can the flat top surface define a curved first connection area? The top can't be flat and curved in the same area unless it is defined as having two or more areas.

Regarding claim 21, the claim states that the tabletop has a flat upper surface and then states that a groove is defined by the upper surface. How can a groove, i.e., a recess, be defined by a flat upper surface?

Regarding claims 26, 27 and 29, how can a groove formed in the top surface of the tabletop have a pair of concave wall surfaces that converge at a bight area formed by the upper surface of the tabletop? Doesn't the groove formed in the top surface imply that the concaved wall surfaces are disposed below the top surface of the tabletop? If this is so, than how can the bight area be formed by the upper surface of the tabletop?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 17, 30 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Easterling, 6671904.

Easterling discloses a support table (12) having an interface (20,22,24) having a non-planar first connection (20) defining a shape capable of the intended functions recited in the claim and a second connection area (22 or 24) defining a shape capable of the intended functions recited in the claim.

5. Claims 21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Vanek, 5983426.

Regarding claims 21 and 25, Vanek discloses a tabletop (22), a groove (20) extending the length of the table, a ridge (lower right corner of table in figure 1b) extending the length of the table and a flat side surface (14) all capable of performing the function of supporting an associated medical appliance relative to the table (see paragraph bridging cols. 5 and 6).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 7, 12, 14, 15, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lussi, 5754997, in view of Easterling.

Regarding claims 6 and 35, Lussi discloses all the recited table limitations but fails to disclose a low radiographic shadow accessory connection interface.

Easterling discloses a low radiographic shadow accessory connection interface defined by a plurality of curved surfaces (20,22) for connecting an associated accessory (32, 14) to the table. Easterling further discloses that the plurality of curved surfaces are without planar portions oriented in a substantially perpendicular relation to the planar top surface, i.e., Easterling only discloses the slanted planar surface (24) and the horizontal planar surface (top of figure 6 to the right of curved surface 20).

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It would have been obvious to a person having ordinary skill in the art to have modify Lussi's patient support to include a low radiographic shadow accessory connection interface, as taught by Easterling, to provide convenient strong accessory support means to be able to position surgical devices about the table during a patient's operation, i.e., freeing up doctors' and nurses' hands and freeing up floor space that used to be taken up by freestanding accessory support structures.

Regarding claims 7 and 12, Easterling discloses a curved lip surface (20) and a planar locating surface (24, at an angle of about 50 degrees) disposed in a non-perpendicular relation with the planar top surface.

Regarding claim 14, Easterling discloses a third connection area (22) having a downwardly directed curved ridge (22) extending from the bottom surface (18) opposite from the curved lip surface (20, figure 6).

Regarding claim 15, Lussi discloses a plurality of intermateable support member portions (figures 3 and 4, 14, 16, 18, 20).

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lussi in view of Easterling, as applied above, and further in view of Westerberg, 4506872.

Regarding claim 16, Lussi discloses a floor mount patient support table but fails to disclose a vertical column member suspended from the ceiling for supporting the patient support table.

Westerberg discloses a vertical column (1) suspended from the ceiling with an extensible arm (2) having a patient support table (3,4) mounted to the end of the

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extensible arm. It is clear that either manipulation devices, i.e., floor mounted or ceiling mounted, work equally as well as the other in manipulating the patient support table.

It would have been an alternative design choice to a person having ordinary skill in the art to use a ceiling mounted manipulator, as taught by Westerberg, in place of Lussi's floor mounted manipulator, since they both perform the identical function of manipulating the patient support table, equally as well as the other and the specification fails to disclose any criticality as to the use of the ceiling mounted manipulator.

9. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanek in view of Easterling.

Regarding claims 22 and 24, Vanek fails to disclose having a beveled side surface. Easterling discloses the benefits of beveling the sides of a patient support table (column 4, lines 29-40), i.e., promotes better image visualization and gives the user the ability to make a more accurate diagnosis when imaging a patient at the edge of the table top. It would have been obvious to a person having ordinary skill in the art to have made Vanek's table edge with a bevel, as taught by Easterling for the reasons indicated above.

Regarding claim 23, Vanek fails to disclose the specific materials that make up the patient support table. Easterling discloses a patient support table having a foam core (28) with a carbon fiber shell (26). It would have been obvious to a person having ordinary skill in the art to have made Vanek's table from a foam core with a carbon fiber shell, as taught by Easterling to provide a lighter table with the same, if not stronger, structural support properties.

Allowable Subject Matter

10. Claims 8-11, 13, 31-33, 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. Claims 2-5, 18-20 and 26-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
12. Claims 37-39 have been allowed.

Response to Arguments

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

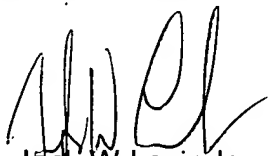
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 703-308-3421. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W Lavinder
Primary Examiner
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2/21/05